

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED
OCT 07 2019
David J. Bradley, Clerk of Court

JOHN SAIN, et al.,

Plaintiffs,

v.

BRYAN COLLIER, et al.,

Defendants.

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CIVIL ACTION NO.
4:18-cv-04412

**PLAINTIFFS' SUPPLEMENTAL MOTION REQUESTING LEAVE OF COURT TO
APPEAL IN FORMA PAUPERIS**

TO THE HONORABLE JUDGE OF SAID COURT...

This supplement is necessary due to my travel restrictions preventing me from being physically present to obtain my six-month statement. I am now back at the Luther Unit and submit my IFP for your review and approval.

Now comes the above-named Plaintiffs' in the above styled and numbered civil action, each in their individual capacity and as a Class, pursuant to 28 U.S.C. § 1915 Requesting Leave of The Court to Proceed In Forma Pauperis.

This is a suit brought by Texas State Inmates against the Director of The Texas Department of Criminal Justice (TDCJ) and all named Defendants under 28 U.S.C. § 1983. The Plaintiffs have filed a complaint redressing TDCJ's cruel and unusual punishment of inmates, specifically TDCJ's gross indifference to the extreme heat conditions which exist in the inmate housing, work, program, and service areas.

Plaintiffs, upon filing this suit November 20, 2018, organized the funds to pay the filing fee in full. This one-time event was accomplished through the gift of a Plaintiffs relative. The Plaintiffs wholly exhausted their financial resources when they paid the filing and therefore the named Plaintiffs have not and do not possess the means to contribute and fund the expenses necessary to retain Legal Counsel in this very complicated and complex suit nor to gather and retain expert witnesses whom will verify the Constitutional violations the Defendants force upon the inmates at the Luther Unit.

Because of the named Plaintiffs financial status as shown in the attached In Forma Pauperis data sheets, Plaintiffs respectfully request the Court to allow them to proceed In Forma Pauperis in the litigation from this point forward.

Plaintiffs present for the Court's consideration their individual In Forma Pauperis data sheet and six-month TDCJ Trust Fund Financial Statements.

Attachment C – Phillip Gullett

RELIEF REQUESTED

Based upon their incarceration and inability to pay cost the Plaintiffs request the Court to allow them to Proceed In Forma Pauperis.

PRAYER

Premises considered, Plaintiffs pray that this Honorable Court having found good cause will grant Plaintiffs' Motion and any additional relief the Court may deem appropriate in order that they may be able to effectively redress their Constitutional claims.

Direct the Clerk to provide a copy of the Court's Order to all parties.

Respectfully Submitted,

Dated: September 30, 2019

CERTIFICATE OF CONFERENCE

Whereby their signatures below, Plaintiffs do hereby certify/declare that a conference is not possible because Plaintiffs are incarcerated in Texas Department of Criminal Justice, Institutional Division, and are proceeding Pro Se in this cause. Plaintiffs will not speculate on whether the Defendants oppose this motion.

CERTIFICATE OF SERVICE

Whereby their signatures below, Plaintiffs do hereby certify/declare that true and correct copies of the foregoing document was forwarded via U.S. First Class Mail, postage pre-paid, to the following parties:

- a. Bryan Collier
TDCJ Executive Director
Texas Department of Criminal Justice
- b. James McKee
Warden
O.L Luther Unit (P2)
- c. Texas Department of Criminal Justice
c/o Bryan Collier
TDCJ Executive Director

Service was perfected to the above Defendants through their Attorneys of Record for Service:

Todd Disher
Attorney In Charge
Office of Attorney General of Texas
209 W 14th, 8th Floor
Austin, TX 78701

Leah Jean O'Leary
Office of the Attorney General
Law Enforcement Defense Division
P.O. Box 12548 Capital Station
Austin, TX 78711-2548

CERTIFICATE OF MAILING

Whereby their signatures below, Plaintiffs do hereby certify/declare that the foregoing document was delivered to the United States Post Office for processing (U.S. First Class postage, pre-paid).

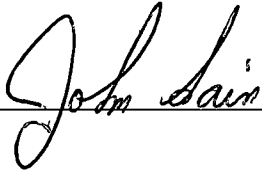
Pursuant to Fed. R. App. P. Rule 25 (a)(2)(A)(iii), "Mailbox Rule," Pro se documents filed at the time they are placed in the institutional mailing system for processing.

INMATE DECLARATION


We, the Plaintiffs listed below, being over 18 years of age, of sound mind, capable of making this declaration due to the facts that we: suffer from and/or experience(d) one or more of the conditions described; attended consultations with qualified medical and other professionals; having been trained by medical personnel to recognize and treat complications due to illness/heat/cold; having studied materials listed under Fed. R. Civ. P. Rule 902; through our personal observations; and due to belief and empirical knowledge that the facts stated above; pursuant to 28 U.S.C. § 1746, do hereby declare under penalty of perjury that the foregoing is true and correct from personal knowledge.

Executed on September 30, 2019

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